

ATTACHMENT - REMARKS

Claims 11-21 are pending in the present application. By this Amendment, Applicant has canceled claims 1-10 and added new claims 11-21. Applicant respectfully submits that the present application is in condition for allowance based on the discussion which follows.

Claims 1-3 and 8-10 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,472,719 (hereinafter “Favre”); claims 4 and 5 were rejected under 35 U.S.C. § 102(b) as being anticipated by EP 1 364 605 (hereinafter “Sagliaschi”); and claims 6-7 and 8-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Favre further in view of Sagliaschi.

In order to more clearly recite what Applicant believes to be the invention, by this Amendment, Applicant has canceled claims 1-10 and added new claims 11-21.

Claim 11 corresponds essentially to dependent claim 5 rewritten in independent form including the subject matter recited in claim 2. Claim 12 includes the subject matter recited in canceled claim 6, claim 13 recites the subject matter previously recited in canceled claim 7, and claims 14-16 correspond to subject matter previously recited in canceled claim 3. Claims 18-21 correspond to the subject matter previously recited in claims 8-10. Finally, the subject matter recited in claim 17 can be found in the present specification, for example, page 5, lines 18-20 which recite that the coffee cartridge is made of an airtight material which prevents the product contained therein from aging. Accordingly, Applicant respectfully submits that new claims 11-21 do not present new matter.

Applicant respectfully submits that the new claims are clear of the prior art cited in the outstanding Office Action. For example, with regard to the cartridge recited in claim 11, the cartridge is novel over Favre in that the present cartridge comprises a plurality of radial stiffening ribs formed on the first wall extending from a weakened area in the top of the cartridge. In Favre, the cartridge does not have a plurality of radial stiffening ribs formed in the top, upper wall 4.

Further, Applicant respectfully submits that claim 11 is not anticipated by or obvious in view of Sagliaschi as Sagliaschi fails to teach or in any way make obvious a cartridge in which its cylindrical side walls and top and bottom, i.e., the entire cartridge, are composed of an airtight material. To the contrary, Sagliaschi clearly teaches that its top surface 41 is composed of a water permeable material and therefore its cartridge is not composed of an airtight material as claimed. (See, e.g., Sagliaschi, paragraph [0037], disclosing the top of cartridge 4 being made of a filter wall material 40 with a plurality of holes 44 and therefore, the top 40 is not composed of an airtight material.)

Furthermore, Applicant respectfully submits that it would not have been obvious to one of ordinary skill in the art to combine the cartridge of Favre with the cartridge of Sagliaschi to in any way arrive at the claimed cartridge. For example, there fails to be any apparent reason which would have led one of ordinary skill in the art to modify the top layer in the filter cartridge of Favre to include a plurality of radial stiffening ribs as one skilled in the art would not have seen any benefit for including them. Moreover, including radial stiffening ribs would have been seen as adding to the cost of

manufacturing the cartridge and therefore one would not have incurred the added manufacturing cost to include radial stiffening ribs.

Further, although the subject matter now recited in claim 1 was rejected when presented in now cancelled claim 5, as being anticipated by Sagliaschi, it is unclear to Applicant which element(s), in the cartridge of Sagliaschi, that the Examiner considers as anticipating the claimed stiffening ribs. Therefore, Applicant is unable to more specifically discuss why it would not have been obvious to include various unspecified aspects of Sagliaschi with the cartridge in Favre to arrive at the claimed invention. Nevertheless, since Favre and Sagliaschi are directed to two completely different types of cartridges, Applicant respectfully submits that one of ordinary skill in the art would not have modified the cartridge of Favre with elements of Sagliaschi, to arrive at the claimed invention. Favre is directed to an airtight self-contained filter cartridge in which both top and bottom must be pierced in order to produce the brewed beverage. Sagliaschi is directed to a cartridge which contains a permeable (top) exterior wall. Accordingly, since these are two completely different coffee cartridges, one of ordinary skill in the art would not be led to modify a liquid impermeable top membrane in the filter cartridge of Favre (which must be pierced) with aspects of the liquid permeable membrane in the cartridge of Sagliaschi, to arrive at the claimed cartridge.

Based on the foregoing, Applicant respectfully submits that claims 11-17 are not anticipated by or obvious in view of the previously cited art individually or in combination with one another. Further, Applicant respectfully submits that the dependent claims recite additional subject matter which is novel and not obvious in view of the prior art. For example, claim 14 recites that the weakened area comprises a fracture area.

Claim 15 recites that the fracture area comprises a pre-fracture line and claim 16 recites that the weakened area comprises a pair of intersecting pre-fracture lines. The prior art fails to teach or in any way make obvious the recited elements in claims 14-16.

Accordingly, Applicant respectfully submits that claims 11-17 are clear of the prior art.

Further, Applicant respectfully submits that claims 18-21 directed to a dispensing unit are not anticipated or obvious in view of the prior art. Although previously presented and now canceled claims 8-10 were rejected under 35 U.S.C. § 103(a) as being obvious from Favre in view of Sagliaschi, Applicant respectfully submits that claims 18-21 more clearly recite the present dispensing unit and further highlight novel and non-obvious features over the prior art. Specifically, with regard to claim 18, the dispensing unit comprises a hot water supply means for supplying hot water and forming a hole in a first wall at a top of a cartridge containing coffee. A dispensing means comprises a perforating means for forming at least one hole in a second wall at a bottom of the cartridge. The perforating means forms a seal with lips of the second wall which surrounds the hole, thereby preventing fluid from being dispensed from the bottom of the cartridge through the second wall until a sufficient pressure builds up within the cartridge. At the point in which a sufficient pressure builds up, fluid is dispensed from around the perforation means in a space defined between an exterior surface of the perforation means and the hole in the second wall.

Referring to the specification, and in particular Figures 4 and 5, for exemplary purposes only and not to in any way limit the scope of the claimed invention, initially the perforation means 34 punctures the second wall, i.e., bottom of the cartridge 301 as shown in Figure 4. At this point, a water and airtight seal is formed between the

perforation means 34 and the resulting hole 321 thereby preventing fluid, e.g., coffee, from being dispensed from the second wall, i.e., the hole in the bottom of the cartridge. At a subsequent point, when a sufficient pressure is built up within the filter cartridge, lips of the second wall which surround the hole 321 are pushed outwardly as shown in Figure 5, thereby allowing the fluid to be dispensed through the hole and around the perforation means, in a space defined between an exterior surface of the perforation means 34 and the hole 321.

Applicant respectfully submits that the present dispensing unit is distinguishable from the dispenser in both Favre and Sagliaschi. In Favre, there is no hot water supply means which forms a hole in the top of the filter packet.

Moreover, neither Favre nor Sagliaschi teach or in any way make obvious a perforation means which forms a hole in the bottom of a filter cartridge and forms a seal around the perforation means which prevents fluid from being dispensed until a sufficient pressure builds up within the cartridge. To the contrary, Favre clearly discloses a perforation means such as projection 13 or 22, both which have a center channel which, once the hole is formed, allows fluid to be dispensed through the projection. Accordingly, at no point does the perforation means form a hole, and seal that hole in the cartridge to prevent fluid from being dispensed through that hole, around the perforation means, as claimed.

Similarly with regard to Sagliaschi, as shown in Figure 8, punch 111 forms a hole which allows immediate dispensing of a fluid through channel 112. Accordingly, punch 111 does not form a hole in the bottom of the cartridge which is then sealed to

prevent fluid from escaping as once the hole is formed with punch 111, fluid can be dispensed through channel 112.

Based on the foregoing, Applicant respectfully submits that claims 18-21 are not anticipated by or obvious in view of the prior art individually or in combination.

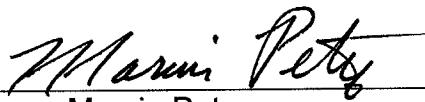
In view of the foregoing, Applicant respectfully submits that the present application is in condition for allowance.

Respectfully submitted,

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